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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

MESA AIR GROUP, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 10-10018 (MG)

(Jointly Administered)

NOTICE OF AMENDED EXHIBIT

PLEASE TAKE NOTICE that the debtors and debtors in possession (collectively, the “Debtors”) hereby file this notice of an amended Exhibit E to the *Objection to the Request by Engine Lease Finance Corporation and Deucalion Engine Leasing (Ireland) Limited for Allowance and Payment of Administrative Expense Pursuant to Section 503(b) and 507(a)(2) of the Bankruptcy Code* filed on October 20, 2010 [Docket No. 1131].

¹ The Debtors are: Mesa Air Group, Inc. (2351); Mesa Air New York, Inc. (3457); Mesa In-Flight, Inc. (9110); Freedom Airlines, Inc. (9364); Mesa Airlines, Inc. (4800); MPD, Inc. (7849); Ritz Hotel Management Corp. (7688); Regional Aircraft Services, Inc. (1911); Air Midwest, Inc. (6610); Mesa Air Group Airline Inventory Management, LLC (2015); Nilchi, Inc. (5531); and Patar, Inc. (1653).

Dated: November 5, 2010
New York, New York

PACHULSKI STANG ZIEHL & JONES LLP

/s/ John W. Lucas

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EXHIBIT E

(UAL December 17, 2004 Transcript)

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1 IN THE UNITED STATES BANKRUPTCY COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 In re:)
5 UAL CORPORATION, et al.,) No. 02 B 48191
6) Chicago, Illinois
Debtors.) December 17, 2004
9:30 a.m.

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8 TRANSCRIPT OF PROCEEDINGS BEFORE THE
HONORABLE EUGENE R. WEDOFF

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10 APPEARANCES:

11 MR. JAMES SPRAYREGEN
12 MR. MARC KIESELSTEIN
13 MR. DANIEL LAYTIN
14 MR. DAVID SELIGMAN
15 MR. MARC CARMEL
16 MR. ERIC PREZANT
17 MR. ANDY MAROVITZ
18 MR. TODD GALE
19 on behalf of the debtors;
20 MR. FRUMAN JACOBSON
21 on behalf of the official creditors committee;
22 MR. FIL AGUSTI
23 on behalf of the IFS;
24 MS. THERESA GEE
25 on behalf of the Secretary of Labor for the U.S.
Department of Labor;
MR. JOHN MENKE
on behalf of the Pension Benefit Guaranty
Corporation;
MR. JACK CARRIGLIO
on behalf of the United Retired Pilots Benefit
Protection Association;
MR. TOM REDBURN
on behalf of the IAM;

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1 MR. ROBERT CLAYMAN
2 on behalf of the Association of Flight Attendants;
3 MS. KATY GLEASON
4 on behalf of the United States Trustee;
5 MR. DANIEL CURTH
6 MR. DAVID KANE
7 on behalf of OurHouse;
8 MR. ANDREW ROSENMAN
9 on behalf of UAL Loyalty Services;
10 MR. RICHARD LORENZEN (TELEPHONICALLY)
11 on behalf of Best Western;
12 MR. FRANK CITERA
13 on behalf of the city of Chicago;
MS. CAROL CONNER FLOWE
on behalf of SunTrust Bank;
MR. PATRICK MCLAUGHLIN
on behalf of U.S. Bank as trustee;
MR. ROBERT FISHMAN

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14 on behalf of the 2000 A ad hoc committee;
15 MR. MARK HEBBELN
on behalf of HSBC Bank.

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1 THE CLERK: UAL Corporation, 02 B 48191.
2 MR. SPRAYREGEN: Good morning, Judge
3 Wedoff. James Sprayregen from Kirkland & Ellis on
4 behalf of the debtors. Your Honor, we filed a
5 status report late yesterday. I believe we got it
6 to your chambers prior to your departure, but I'm
7 not sure if the court has had an opportunity to
8 review it.

9 THE COURT: You did, and I have reviewed
10 it. And so we're in the situation that we have been
11 several times in the past where if there is
12 something you want to say for the benefit of the
13 people who are here, you're certainly free to do
14 that. But, otherwise, we can get right to the
15 agenda.

16 MR. SPRAYREGEN: Well, the status report,
17 obviously it's filed and would be available for
18 people to review, so I don't think I need to
19 duplicate the oral conversation -- I'm sorry, the
20 written document with oral conversation. I would
21 only add that we did file late yesterday, around the
22 same time as the status report, an emergency motion
23 concerning a scheduling issue, and the court should
24 have received that also.

25 THE COURT: Yes. And that's the last item
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1 on the agenda, unless there is a need to take that
2 up first. I shouldn't say on the agenda, it's the
3 last item in my computer-generated call. So if you
4 want to take that out of order, we can. But,
5 otherwise, I would just as soon leave it where it
6 is.

7 MR. SPRAYREGEN: That's fine, Your Honor.
8 I'll address it at that point in time.

9 THE COURT: Okay. Then we can turn to the
10 agenda. The first matter is a motion for leave to
11 prosecute claims brought by the unsecured creditors
12 committee. That's been requested to be continued to
13 January 1, and that will be done unless there is any
14 objection to that.

15 MR. SPRAYREGEN: That's correct. And
16 there is some discussion as to whether it's moot in
17 light of the events of the past couple of weeks.
18 And we'll hopefully deal with that at the next
19 hearing.

20 THE COURT: All right.

21 THE CLERK: January 21.

22 THE COURT: The next matter is the motion
23 of the Port of Oakland for relief from stay to
24 assert setoff rights. And, again, that's being

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23 provides information regarding its operations
24 without the need for getting a court order to
25 provide the information.

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1 The next several matters on the
2 agenda, items seven, eight, and nine, all are
3 motions for attorneys to appear pro hac vice. My
4 role here is basically that of a fee collector. If
5 fees have been paid, I am happy to welcome
6 Messrs. Feinsmith, Elstad, and Pohl to practice
7 before the court in this case. This was going to be
8 presented by Mr. Dressler or...

9 MR. POHL: Your Honor, Steve Pohl. My
10 colleagues Todd Feinsmith and John Elstad aren't
11 here today because they don't need to be here.

12 THE COURT: They do not.

13 MR. POHL: And I'm told by my local
14 counsel that he didn't have to be here, so I'm here
15 for these motions.

16 THE COURT: I just need to know that those
17 fees were paid.

18 MR. POHL: The clients will pay our fees,
19 yes.

20 THE COURT: Well, if they're planning to
21 do it in the future, I'm not going to grant the
22 motion until they pay. If the fees have been paid,
23 then, of course, I will enter the orders that you've
24 proposed.

25 MR. POHL: Yes, they have been paid, Your

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1 Honor.

2 THE COURT: Thank you very much.

3 MR. POHL: I apologize.

4 THE COURT: And welcome to the court.

5 MR. POHL: Thank you.

6 MR. SPRAYREGEN: Your Honor,
7 Mr. Kieselstein is going to handle the next -- 10
8 through 14.

9 THE COURT: Okay. At this point --

10 MR. KIESELSTEIN: Good morning, your
11 Honor. Marc Kieselstein on behalf of the debtors.

12 THE COURT: Ten and 11 really go together.
13 Eleven is the motion of U.S. Bank, National Bank of
14 New York, and Wells Fargo to compel payment of
15 post-petition lease obligations for now, I guess, 18
16 leased aircraft, and item ten deals with that. It's
17 the debtors' motion. It's termed a motion to
18 dismiss under Federal Rule of Civil Procedure
19 12(b)(6) of certain claims that are made in the
20 motion. I've read the briefs on item ten, this
21 motion to dismiss, and I'm prepared to rule on it.
22 I don't believe I'll need argument. But I'll read
23 this ruling into the record and we'll see where we
24 stand after I rule on it.

25 MR. KIESELSTEIN: Very good, Your Honor.

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1 THE COURT: The initial issue presented
2 here is whether the motion is appropriate. It is.
3 A motion seeking to limit the issues for trial can
4 be considered as a motion in limine without regard
5 to its appropriateness under Rule 12(b)(6) of the
6 Federal Rules of Civil Procedure, and so I will rule
7 on the merits of the motion. On the merits, the
8 motion raises legal questions involving two claims

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9 for allowance of administrative expense set out in
10 the trustees' amended motion. First, a claim of
11 entitlement to adequate protection for a loss of
12 value, maintenance burn, during periods of time
13 after termination of the automatic stay, and,
14 second, a claim for breach of return obligations set
15 out in the underlying leases where those leases were
16 not subject to an agreement under Section
17 1110(a)(2)(A).

18 As to the first issue, the debtors are
19 correct. Adequate protection is intended to
20 compensate a creditor for the loss of its interest
21 in property of the debtor during the time that the
22 automatic stay is in effect. The need for adequate
23 protection in bankruptcy arises from the fact that
24 the automatic stay prevents a creditor from
25 exercising its nonbankruptcy rights to the debtors'

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1 property, and so may impose on the creditor a
2 bankruptcy induced decline in the value of its
3 interest in depreciating property. See United
4 Savings Association versus Timbers of Inwood Forest
5 Associates, 484 U.S. 365, 371, 1988, stating that a
6 creditor is not adequately protected unless it is,
7 quote, "reimbursed for the use of the proceeds he is
8 deprived of during the term of the stay," close
9 quote.

10 However, once the stay is terminated
11 as to a particular item of property, the creditor is
12 free to exercise its nonbankruptcy remedies, taking
13 possession of or selling the property, and so is no
14 longer entitled to the bankruptcy-based remedy of
15 adequate protection. This understanding is
16 reflected in Section 363(e) of the Bankruptcy Code
17 which allows adequate protection to personal
18 property lessors, quote, "to the exclusion of such
19 property being subject to an order to grant relief
20 from the automatic stay," close quote. A creditor
21 might choose to allow the debtor to retain property
22 after the termination of the stay. But if so, the
23 creditor is free to require whatever protection the
24 creditor wishes as a condition for retention.
25 Adequate protection under the Bankruptcy Code has no

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1 application to this situation.

2 As to the second issue, return
3 obligations cannot be a ground for allowance of an
4 administrative expense in their own right. It may
5 well be that property is returned by the debtor in a
6 condition contrary to that required by the lease.
7 But if the property was damaged by the debtor prior
8 to the filing of the case, that damage would be a
9 pre-petition nonpriority claim, not a priority claim
10 arising during the administration of the bankruptcy
11 case. This distinction is clearly set forth in in
12 re Atlantic Container Corporation, 133 BR 980, 992,
13 a decision of the bankruptcy court for this district
14 in 1991.

15 Atlantic Container Corporation dealt
16 with a real property lease that included termination
17 provisions requiring the property to be returned in
18 the condition that it was received. The landlord
19 claimed an administrative claim for failure to do
20 so. The court concluded its analysis of this

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21 question as follows: Quote, "only the costs of
22 remedying damages to the premises which actually
23 occurred after the filing of the bankruptcy petition
24 may be treated as administrative expenses. See
25 United Trucking Service, 851 F.2d at 164. An

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1 evidentiary hearing will be necessary in order to
2 determine the extent, if any, of damages to the
3 premises which occurred post-petition," close quote.
4 The same result applies here. To the extent that
5 the aircraft were damaged post-petition, an
6 administrative claim would arise. To the extent
7 that any failure to comply with return provisions
8 reflects other than a failure to maintain the
9 aircraft in accordance with the applicable leases
10 post-petition, there would be no administrative
11 claim.

12 As a result, considered as a motion in
13 limine, the debtors' motion will be granted. The
14 court will not hear evidence at the scheduled
15 hearing on the trustees' amended motion with respect
16 to either a lack of adequate protection after
17 termination of the automatic stay or to any breach
18 of return obligations not involving failure of the
19 debtors to maintain aircraft according to applicable
20 obligations during the period prior to rejection of
21 its leases. I will enter an order in conformity
22 with this ruling.

23 That leaves the underlying motion for
24 allowance of administrative claims to be heard on
25 March 1 with the factual disputes that remain after

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1 this ruling.

2 MR. KIESELSTEIN: Thank you, your Honor.

3 UNIDENTIFIED SPEAKER: Thank you.

4 MR. KIESELSTEIN: Your Honor, I do think
5 we also were going to talk just about a pre-trial
6 order and the like with respect to the March 1 trial
7 on 365(d)(10). And we have exchanged with counsel a
8 proposed set of dates. That's still being worked
9 on, Your Honor. Frankly, it got caught up in the
10 backwash of some of the other issues that we've had
11 with the aircraft providers. So we hope to submit
12 something to Your Honor soon, in the next couple of
13 weeks.

14 THE COURT: Well, that would be a very
15 good idea. And it might be a good idea to set a
16 date for a continued pre-trial conference, if you
17 will, so that if there is any remaining dispute or
18 unclarity about that it can be resolved prior to
19 March 1.

20 MR. KIESELSTEIN: Could we do that at the
21 January omnibus, Your Honor?

22 THE COURT: Yes, that would be fine.

23 Mr. Jacobson, you had something to
24 say?

25 MR. JACOBSON: Yes, your Honor. Fruman

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1 Jacobson on behalf of the official creditors
2 committee. We wanted to join the debtor in the
3 reservation of rights which is reflected in the
4 draft order.

5 THE COURT: Well, that's fine. But I
6 haven't seen it. So if you have an agreed order

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11 MR. SPRAYREGEN: We were going to suggest
12 a January 4 reply to any objections so you would
13 have things two days before the hearing.

14 THE COURT: Okay.

15 MR. SPRAYREGEN: If that works for the
16 court.

17 THE COURT: And, obviously, that puts an
18 imposition on your people as well. But, yes, that
19 would be appropriate.

20 MR. SPRAYREGEN: And I will say we
21 apologize to the court and all the parties for the
22 timing imposition. This is unfortunate --

23 THE COURT: I think it was predictable
24 when we set the 1113 hearing when we did that there
25 could be some interference with peoples' holiday

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1 schedule. I think it's unavoidable.

2 I don't believe there is anything else
3 on the agenda for today.

4 MR. SPRAYREGEN: Thank you, your Honor.
5 Happy holidays.

6 (which were all the proceedings
7 had in the above-entitled cause,
8 December 17, 2004.)

9
10 I, GARY SCHNEIDER, CSR, RPR, DO HEREBY CERTIFY THAT
11 THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF
12 PROCEEDINGS HAD IN THE ABOVE-ENTITLED CAUSE.
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